CHAPTER II—OFFICE OF LABOR-MANAGEMENT STANDARDS, DEPARTMENT OF LABOR

PART 215—GUIDELINES, SECTION 5333(b), FEDERAL TRANSIT LAW

AUTHORITY: Secretary's Order No. 5–96, 62 FR 107, January 2, 1997.

SOURCE: 60 FR 62969, Dec. 7, 1995, unless otherwise noted.

§ 215.1 Purpose.

(a) The purpose of these guidelines is to provide information concerning the Department of Labor's administrative procedures in processing applications for assistance under the Federal Transit law, as codified at 49 U.S.C. chapter 53.

(b) Section 5333(b) of title 49 of the United States Code reads as follows:

Employee protective arrangements.—(1) As a condition of financial assistance under sections 5307–5312, 5318(d), 5323 (a)(1), (b), (d), and (e), 5328, 5337, and 5338(j)(5) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307–5312, 5318(d), 5323 (a)(1), (b), (d), and (e), 5328, 5337, and 5338(j)(5) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired mass transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11347 of this title.

§ 215.2 General.

Upon receipt of copies of applications for Federal assistance subject to 49 U.S.C. 5333(b), together with a request for the certification of employee protective arrangements from the Department of Transportation, the Department of Labor will process those applications, which may be in either preliminary or final form. The Federal Transit Administration will provide the Department with the information necessary to enable the Department to certify the project.

§ 215.3 Employees represented by a labor organization.

(a)(1) If affected employees are represented by a labor organization, it is expected that where appropriate, protective arrangements shall be the product of negotiation/discussion, pursuant to these guidelines.

(2) In instances where states or political subdivisions are subject to legal restrictions on bargaining with employee organizations, the Department of Labor will utilize special procedures to satisfy the Federal statute in a manner which does not contravene state or local law. For example, employee protective terms and conditions, acceptable to both employee and applicant representatives, may be incorporated into a resolution adopted by the involved local government.

(3) If an application involves a grant to a state administrative agency which will pass assistance through to subrecipients, the Department of Labor will refer and process each subrecipient's respective portion of the project in accordance with this section. If a state administrative agency has previously provided employee protections on behalf of subrecipients, the referral will be based on those terms and conditions.

(4) These procedures are not applicable to grants under section 5311; grants to applicants serving populations under 200,000 under the Job Access and Reverse Commute Program; or grants to capitalize SIB accounts under the State Infrastructure Bank Program.

(b) Upon receipt of an application involving affected employees represented by a labor organization, the Department of Labor will refer a copy of the

application to that organization and notify the applicant of referral.

(1) If an application involves only a capital grant for routine replacement of equipment of like kind and character and/or facilities of like kind and character, the procedural requirements set forth in §§ 215.3(b)(2) through 215.3(h) of these guidelines will not apply absent a potentially material effect on employees. Where no such effect is found, the Department of Labor will certify the application based on the terms and conditions as referenced in §§215.3(b)(2) or 215.3(b)(3)(ii).

(2) For applicants with previously certified arrangements, the referral will be based on those terms and conditions.

(3) For new applicants and applicants for which previously certified arrangements are not appropriate to the current project, the referral will be based on appropriate terms and conditions specified by the Department of Labor, as follows:

(i) For operating grants, the terms and conditions will be based on arrangements similar to those of the Model Agreement (referred to also as the National Agreement);

(ii) For capital grants, the terms and conditions will be based on arrangements similar to those of the Special Warranty applied pursuant to section 5311.

(c) Following referral and notification under paragraph (b) of this section, and subject to the exceptions defined in § 215.5, parties will be expected to engage in good faith efforts to reach mutually acceptable protective arrangements through negotiation/discussion within the timeframes designated under paragraphs (d) and (e) of this section.

(d) As part of the Department of Labor's review of an application, a time schedule for case processing will be established by the Department of Labor and specified in its referral and notification letters under paragraph 215.3(b) or subsequent written communications to the parties.

(1) Parties will be given fifteen (15) days from the date of the referral and notification letters to submit objections, if any, to the referred terms. The parties are encouraged to engage in negotiations/discussions during this period with the aim of arriving at a mutually agreeable solution to objections any party has to the terms and conditions of the referral.

(2) Within ten (10) days of the date for submitting objections, the Department of Labor will:

(i) Determine whether the objections raised are sufficient; and

(ii) Take one of the two steps described in paragraphs (d)(5) and (6) of this section, as appropriate.

(3) The Department of Labor will consider an objection to be sufficient when:

(i) The objection raises material issues that may require alternative employee protections under 49 U.S.C. 5333(b); or

(ii) The objection concerns changes in legal or factual circumstances that may materially affect the rights or interests of employees.

(4) The Department of Labor will consult with the Federal Transit Administration for technical advice as to the validity of objections.

(5) If the Department of Labor determines that there are no sufficient objections, the Department will issue its certification to the Federal Transit Administration.

(6) If the Department of Labor determines that an objection is sufficient, the Department, as appropriate, will direct the parties to commence or continue negotiations/discussions, limited to issues that the Department deems appropriate and limited to a period not to exceed thirty (30) days. The parties will be expected to negotiate/discuss expeditiously and in good faith. The Department of Labor may provide mediation assistance during this period where appropriate. The parties may agree to waive any negotiations/discussions if the Department, after reviewing the objections, develops new terms and conditions acceptable to the parties. At the end of the designated negotiation/discussion period, if all issues have not been resolved, each party must submit to the Department its final proposal and a statement describing the issues still in dispute.

(7) The Department will issue a certification to the Federal Transit Administration within five (5) days after

the end of the negotiation/discussion period designated under paragraph (d)(6) of this section. The certification will be based on terms and conditions agreed to by the parties that the Department concludes meet the requirements of 49 U.S.C. 5333(b). To the extent that no agreement has been reached, the certification will be based on terms and conditions determined by the Department which are no less protective than the terms and conditions included in the referral pursuant to §§ 215.3(b)(2) and 215.3(b)(3).

(8) Notwithstanding that a certification has been issued to the Federal Transit Administration pursuant to paragraph (d)(7) of this section, no action may be taken which would result in irreparable harm to employees if such action concerns matters subject to the steps set forth in paragraph (e) of this section.

(e) If the certification referred to in paragraph (d)(7) of this section is not based on full mutual agreement of the parties, the Department of Labor will take the following steps to resolve outstanding differences:

(1) The Department will set a schedule that provides for final resolution of the disputed issue(s) within sixty (60) days of the certification referred to in paragraph (d)(7) of this section.

(2) Within ten (10) days of the issuance of the certification referred to in paragraph (d)(7) of this section, and after reviewing the parties' descriptions of the disputed issues, the Department will define the issues still in dispute and set a schedule for final resolution of all such issues.

(3) The Department may establish a briefing schedule, usually allowing no more than twenty (20) days for opening briefs and no more than ten (10) days for reply briefs, when the Department deems reply briefs to be beneficial. In either event, the Department will issue a final certification to the Federal Transit Administration no later than thirty (30) days after the last briefs are due.

(4) The Department of Labor will decide the manner in which the dispute will be resolved. In making this decision, the Department may consider the form(s) of dispute resolution employed by the parties in their previous dealings as well as various forms of third party dispute resolution that may be appropriate. Any dispute resolution proceedings will normally be expected to commence within thirty (30) days of the certification referred to in paragraph (d)(7) of this section, and the Department will render a final determination, including the bases therefor, within thirty (30) days of the commencement of the proceedings.

(5) The Department will make available final decisions it renders on disputed issues.

(f) Nothing in these guidelines restricts the parties from continuing to negotiate/discuss over final terms and conditions and seeking a final certification of an agreement that meets the requirements of the Act prior to the issuance of a final determination by the Department.

(g) If, subsequent to the issuance of the certification referred to in paragraph (d)(7) of this section, the parties reach an agreement on one or more disputed issues that meets the requirements of the Act, and/or the Department of Labor issues a final decision containing revised terms and conditions, the Department will take appropriate steps to substitute the new terms and conditions for those previously certified to the Federal Transit Administration.

(h) Notwithstanding the foregoing, the Department retains the right to withhold certification where circumstances inconsistent with the statute so warrant until such circumstances have been resolved.

[60 FR 62969, Dec. 7, 1995, as amended at 64 FR 40992, July 28, 1999]

§ 215.4 Employees not represented by a labor organization.

(a) The certification made by the Department of Labor will afford the same level of protection to those employees who are not represented by labor organizations.

(b) If there is no labor organization representing employees, the Department of Labor will set forth the protective terms and conditions in the letter of certification.

§ 215.5 Processing of amendatory applications.

When an application is supplemental to or revises or amends in immaterial respects an application for which the Department of Labor has already certified that fair and equitable arrangements have been made to protect the interests of mass transit employees affected by the subject project the Department of Labor will on its own initiative apply to the supplemental or other amendatory application the same terms and conditions as were certified for the subject project as originally constituted. The Department of Labor's processing of these applications will be expedited.

§ 215.6 The Model Agreement.

The Model (or National) Agreement mentioned in paragraph (b)(3)(i) of § 215.3 refers to the agreement executed on July 23, 1975 by representatives of the American Public Transit Association and the Amalgamated Transit Union and Transport Workers Union of America and on July 31, 1975 by representatives of the Railway Labor Executives' Association, Brotherhood of Locomotive Engineers, Brotherhood of Railway and Airline Clerks and International Association of Machinists and Aerospace Workers. The agreement is intended to serve as a ready-made employee protective arrangement for adoption by local parties in specific operating assistance project situations. The Department has determined that this agreement provides fair and equitable arrangements to protect the interests of employees in general purpose operating assistance project situations and meets the requirements of 49 U.S.C. 5333(b).

§ 215.7 The Special Warranty.

The Special Warranty mentioned in paragraph (b)(3)(ii) of § 215.3 refers to the protective arrangements developed for application to the small urban and rural program under section 5311 of the Federal Transit statute. The warranty arrangement represents the understandings of the Department of Labor and the Department of Transportation, reached in May 1979, with respect to the protections to be applied for such grants. The Special Warranty provides fair and equitable arrangements to protect the interests of employees and meets the requirements of 49 U.S.C. 5333(b).

§ 215.8 Department of Labor contact.

Questions concerning the subject matter covered by this part should be addressed to Director, Statutory Programs, U.S. Department of Labor, Suite N5603, 200 Constitution Avenue, N.W., Washington, DC 20210; phone number 202–693–0126.

[64 FR 40995, July 28, 1999]

PART 220—AIRLINE EMPLOYEE PROTECTION PROGRAM

Subpart A—Purpose and Scope of the Airline Employee Protection Program

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APPENDIX I TO PART 220—U.S. CARRIERS CERTIFICATED AS OF OCTOBER 23, 1978 UNDER SECTION 401 OF THE FEDERAL AVIATION ACT OF 1958, AS AMENDED

AUTHORITY: Section 43(f) of the Airline Deregulation Act of 1978, Pub. L. No. 95–504, 92 Stat. 1750–1753 (49 U.S.C. 1552); Secretary's Order No. 1–79, 44 FR 13093; Secretary's Order No. 5–96, 62 FR 107, January 2, 1997.

SOURCE: 50 FR 53101, Dec. 27, 1985, unless otherwise noted.

Subpart A—Purpose and Scope of the Airline Employee Protection Program

§ 220.01 Definitions.

As used in this part, unless the content otherwise indicates:

(a) *Act* means the Airline Deregulation Act of 1978, Public Law 95–504, 92 Stat. 1705.

(b) *Air Carrier* means an air carrier certificated under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371).

(c) *Center* means the entity or location which from time to time may be designated by the Secretary to receive, maintain and distribute the job listing information required by this part.

(d) *Corporate officer* means an individual who holds any officer's position established pursuant to the Articles of Incorporation or bylaws of any air carrier, or who is otherwise identified as an officer by any air carrier, in filings with the Federal Aviation Administration, Civil Aeronautics Board or Securities and Exchange Commission or in any reports to stockholders or any public communications of an air carrier.

(e) *Covered air carrier* means an air carrier which was certificated prior to October 24, 1978 (A listing of such carriers appears as an appendix to this part).

(f) *Designated employee* means a protected employee who meets the eligibility requirements set forth in § 220.10.

(g) *Effective period* means the period commencing on the effective date of these regulations and ending on the later of:

(1) October 23, 1988, or

(2) The last day of the final month in which the Secretary is required to make a payment under section 43 of the Act; except that nothing in these regulations shall preclude the exercise of statutory rights and duties between October 24, 1978, and the effective date of these regulations.

(h) *Eligibility period* means the ten-year period beginning on October 24, 1978.

(i) *Employment relationship* means an attachment to a covered air carrier which includes, but is not limited to, compensated service, furlough, leave, or strike.

(j) *Equal employment opportunity requirement* means a specific equal employment requirement, pursuant to a Federal court or administrative order, consent decree, or conciliation agreement, requiring that named individuals or specific members of a class are entitled to relief by virtue of the carrier's unlawful employment discrimination.

(k) *Occupational specialty* means the class, craft, or field of endeavor in which an individual was employed at the time of separation from a covered air carrier or in which the employee was employed during the 12 months immediately preceding the date of separation.

(l) *Protected employee* means a person other than a member of the Board of Directors or corporate officer of a covered air carrier:

(1) Who had an employment relationship with a covered air carrier on October 24, 1978, and

(2) Who on October 24, 1978, had four years of employment or four years accrued seniority with a single covered air carrier. The term employee shall include any full or part-time employee other than an employee in seasonal or temporary employment as defined herein. As used herein four years of employment shall mean not less than 48 months (whether or not consecutive) in which the employee actually completed the minimum number of hours of regular employment required for such employee's craft, class or position under the then applicable requirements of the employing carrier.

(m) *Seasonal employment* means employment during limited periods of the year due to peak market conditions or other factors which are periodic in nature, and in positions which do not confer seniority or recall rights.

(n) *Secretary* means the Secretary of Labor of the United States.

(o) *Temporary employment* means employment of limited duration which does not confer seniority or recall rights.

(p) *Terminated,* means, unless expressly provided to the contrary, termination of employment, other than for cause.

(q) *Terminated for cause* means the separation of an individual from employment initiated by an air carrier for violation of such carrier's rules, policies, procedures, or practices pertaining to employee standards of conduct, job performance, or dependability.

(r) *Vacancy* means an employment opportunity other than seasonal or temporary employment, which an air carrier seeks to fill from outside its existing or furloughed work force.

§ 220.02 Purpose.

Section 43(d) of the Act provides a first-right-of-hire for designated employees of covered air carriers. The regulations in this part are issued to effectuate section 43(d) (1) and (2) of the Act (hereinafter referred to as the Rehire Program).

§ 220.03 Scope.

(a) The Rehire Program is applicable only to designated employees, as more fully set forth herein, and only those employees who are expressly granted a hiring preference under the Act and these regulations have any rights under the Rehire Program. The Secretary of Labor will also publish a comprehensive list of jobs available with air carriers.

§ 220.04 Responsibilities of the Secretary of Labor.

The Secretary of Labor is responsible for administering the Rehire Program, and the Assistant Secretary for Employment Standards has been delegated responsibility for the following:

(a) The development and promulgation of policies, regulations and procedures covering the first-right-of-hire provisions of section 43(d)(1) of the Act;

(b) The development and promulgation of policies, regulations, and procedures covering the comprehensive job list required under section 43(d)(2) of the Act; and

(c) The establishment and implementation of reporting requirements for air carriers to obtain pertinent information necessary for fulfilling the Secretary's responsibilities under section 43(d)(2) of the Act.

[50 FR 53101, Dec. 27, 1985, as amended at 62 FR 6092, Feb. 10, 1997]

Subpart B—Designated Employees' Eligibility and Rights

§ 220.10 Eligibility requirements.

(a) To qualify as a designated employee eligible for rights under this part 220, an applicant must be a protected employee who is involuntarily placed on furlough or is terminated by a covered air carrier during the eligibility period.

(b) A protected employee shall not be deemed to be furloughed or terminated if such employee:

(1) Retired voluntarily;

(2) Was required to retire by virtue of reaching the mandatory retirement age, if any, established by a covered air carrier or as prescribed by any government agency with regulatory authority over a covered air carrier;

(3) Retired due to a disability;

(4) Is on strike or is withholding services in support of other employees who have struck the covered air carrier;

(5) Is terminated for cause as defined in § 220.01;

(6) Resigned or voluntarily quit for any reason.

(c) A designated employee who is recalled by his former carrier is no longer eligible under this section to exercise the first-right-of-hire. Such a person may become a designated employee in the future due to a subsequent termination or furlough which occurs on or prior to the expiration of the eligibility period.

§ 220.11 Designated employees' rights.

(a) A designated employee shall have a first-right-of-hire in such employee's occupational specialty, regardless of age, with any covered air carrier hiring additional employees; *Provided, however,* That each designated employee must satisfy all qualifications or other

requirements established by the hiring carrier (subject to the limitations contained in §220.21) and must make a timely application in accordance with normal carrier procedures for any particular job vacancy.

(b) A designated employee hired by any covered air carrier pursuant to the provisions of the Act shall not be required, as a condition of employment, or in any other manner, to relinquish, waive, or forfeit any seniority or recall rights which such person may possess with any other air carrier; *Provided, however*, That the provisions of this part shall not be deemed to create or prolong any such seniority or recall rights.

Subpart C—Carriers' Responsibilities

§220.20 Duty to hire.

(a) Subject to §220.24, a covered air carrier shall have the duty to hire a designated employee, regardless of age, who otherwise meets the qualification requirements established by such carrier before it hires any other applicant when such carrier is seeking to fill a vacancy in the designated employee's occupational specialty from outside its work force. As used herein ''work force'' shall include all present employees and any furloughed or terminated employees who, at the time of furlough or termination, possessed recall or seniority rights.

(b) Subject to the provisions of §220.24, a covered air carrier shall not fill a vacancy, which would otherwise be available to a designated employee, by promoting or reassigning a seasonal or temporary employee, *unless* such seasonal or temporary employee is a designated employee.

(c) When considering applications from more than one designated employee for a particular vacancy, a covered air carrier shall be entitled to offer employment to any such designated employee in its absolute discretion.

§220.21 Criteria for employment.

(a) A covered air carrier shall be entitled to apply any prerequisites or qualifications determined by it for any vacancy, except that, solely with respect to the duty to hire created by the Act, a covered air carrier shall not be entitled to limit employment opportunities for designated employees on the basis of:

(1) Initial hiring age (provided that such prohibition shall not be applicable to retirement ages applicable to all of any class or craft of such air carrier's employees); or

(2) The existence of any seniority, recall rights or previous experience with any other air carrier; *Provided, however*, That covered air carriers shall be entitled to require prospective employees to disclose the existence of any such seniority or recall rights in making application for employment and to take the existence or nonexistence of such rights into account in selecting from among those qualified designated employees who have applied for a particular job vacancy.

(b) In filling job vacancies during the effective period, covered air carriers shall be entitled to require applicants to furnish evidence that they are designated employees.

EDITORIAL NOTE: A court-ordered justification by the Secretary of Labor relating to 29 CFR 220.21(a)(1) appears at 51 FR 32306, Sept. 11, 1986.

§220.22 Listing a vacancy.

(a) During the effective period all air carriers shall be required to list each vacancy with the Center at the earliest practicable time, and to include with such listing a statement as to whether the carrier is subject to an equal employment opportunity requirement, as defined in these regulations, in filling the vacancy. In addition, any air carrier shall be entitled to list anticipated vacancies with the Center at any time.

§220.23 Content of vacancy listing.

Air carriers shall provide the Center with a description for each job listing, which shall include, but need not be limited to, the following:

(a) Job title;

(b) Type of position (full or part-time);

(c) Salary;

(d) Basic qualifications and/or training requirements;

(e) Brief description of duties;

(f) Location of vacancy (if known);

(g) Special requirements such as type rating, licensing, skill requirements, etc.;

(h) Whether the vacancy is subject to the duty to hire;

(i) Information on how to apply, such as contact person, mailing address, and any special application procedures; and

(j) Whether the carrier is subject to an equal employment opportunity requirement, as defined in these regulations, in filling the vacancy.

(Approved by the Office of Management and Budget under OMB control number 1214–0002)

§ 220.24 Filling a vacancy.

(a) A covered air carrier may fill a vacancy with a designated employee at any time after a vacancy has been listed with the Center.

(b) A covered air carrier may fill a vacancy with someone who is not a designated employee after the vacancy has been listed with the Center for at least 30 days; if

(1) No designated employee with the requisite occupational specialty has applied for the vacancy in accordance with § 220.30 within that time;

(2) No designated employee who did apply within that time period meets the carriers' criteria for employment as set forth in § 220.21; or

(3) The vacancy is subject to an equal employment opportunity requirement and the carrier cannot satisfy such equal employment opportunity requirement by hiring a designated employee.

(c) A covered air carrier may fill a vacancy on a temporary basis with someone who is not a designated employee while the carrier is considering applications for the vacancy which were received from designated employees during the listing period.

(d) The date of the listing shall be the date on which the listing is received by the Center.

§ 220.25 List of protected employees.

(a) Within 60 calendar days of the effective date of these regulations, each covered air carrier shall provide the Secretary with a list of all protected employees who were employed by it on October 24, 1978.

(b) The list shall contain the following information:

(1) Protected employee's name;

(2) Social Security number (if available); and

(3) Current occupational specialty for present employees or occupational specialty at the time of separation from employment for former employees.

(c)(1) Not later than 90 calendar days after the effective date of these regulations, each covered air carrier shall provide a onetime notice to each employee with an employment relationship with the carrier on October 24, 1978, stating whether or not the carrier has determined that employee to be a protected employee within the meaning of these regulations, and if so that the carrier has reported his or her name to the Secretary. Employees who are determined to be not protected shall be advised of their rights to appeal.

(2) Employees who dispute the carrier's determination of protected status may submit evidence of their status to the covered air carrier within 60 calendar days of receiving the notice required by paragraph (c)(1).

(3) The covered air carrier shall consider the evidence submitted by the employee and shall inform the employee of its final determination within 15 calendar days of the submission of evidence. In the event the carrier determines that the employee qualifies as a protected employee, it shall forward the information required by paragraph (b) of this section to the Secretary.

(The requirements contained in § 220.25(a) were approved by the Office of Management and Budget under OMB control number 1214–0002)

§ 220.26 Appeals to the Secretary.

(a) If the employee disagrees with the carrier's final determination under § 220.25 that he or she is not a protected employee within the meaning of this part, the employee (or his or her designated representative with express authorization) may appeal such determination to the Secretary within 60 calendar days of the carrier's final decision under § 220.25(c)(3) or the date when such decision was required.

(b) An appeal must be written, dated, and signed by the employee. It must set forth:

(1) The full name, address, and telephone number of the employee;

(2) The full name and address of the carrier making the determination; the full name of the individual(s) who made the determination for the carrier and the date of that determination;

(3) A summary of the pertinent events and circumstances concerning the employee's status and the basis of the disagreement, including the original date of hire, date of all periods of furlough, leave or termination, and copies of relevant documents; and

(4) Such other information as may be required by the Secretary.

(c) Any appeal hereunder may be filed with the Airline Employee Protection Program, Division of Statutory Programs, Office of Labor-Management Standards, 200 Constitution Avenue, NW., Washington, DC 20210.

(d)(1) Upon receipt of an appeal, the Secretary will request information from the parties or conduct such other investigation as may be required.

(2) Upon review of the entire record, the Secretary shall determine either that:

(i) The employee qualifies for protected status, and the Secretary shall add the employee's name to the list of protected employees and so notify the parties; or

(ii) The employee does not qualify for protected status and so notify the parties.

[50 FR 53101, Dec. 27, 1985, as amended at 62 FR 6092, Feb. 10, 1997]

§ 220.27 Notice of rights.

(a) Not later than the date of separation from employment, a covered air carrier which furloughs or terminates a protected employee during the eligibility period, unless such furlough is limited to a specific period of less than 90 calendar days, shall furnish such protected employee with a notice of rights in the form of a letter or other written documentation that such employee is a designated employee and thereby is entitled to exercise a first-right-of-hire. Such notice of rights shall include, but not be limited to, the following information:

(1) Name;

(2) Social Security number (if available);

(3) Occupational specialty;

(4) Date of furlough or termination;

(5) An official of the covered air carrier who can verify the individual's status as a designated employee; and

(6) Signature, name, and location of the certifying official.

(b) As soon as practicable, but not later than 60 calendar days following the effective date of these regulations, each covered air carrier shall make a reasonable effort to provide the notice or rights required in paragraph (a) of this section to any designated employee who was furloughed or terminated by such carrier on or after October 24, 1978, and prior to the effective date of these regulations and who has not been recalled to employment by such covered air carrier.

(c) A covered air carrier shall provide a verified true copy of the notice of rights to a designated employee who has lost his or her original copy.

(Approved by the Office of Management and Budget under OMB control number 1214–0002)

§ 220.28 Air carrier actions to be reported to the Secretary.

(a) A covered air carrier shall report to the Secretary:

(1) The names and Social Security numbers (if available) of all designated employees hired by it, and

(2) The filling of any vacancy with other than a designated employee.

With respect to any occurrences reported under paragraph (a)(2) of this section, the report of the covered air carrier shall contain the job order number assigned to that vacancy by the Center, the date of hire, and a certification by a corporate officer that the carrier complied with the provisions of this part and that no qualified designated employee with the requisite occupational specialty applied in a timely manner.

(b) Two copies of the reports required by this section shall be filed with the Secretary covering the six-month periods ending June 30 and December 31 of each calendar year in which these regulations are in effect and shall be submitted within 60 calendar days of the end of the reporting period.

(Approved by the Office of Management and Budget under OMB control number 1214–0002)

§ 220.29 Equal employment opportunity.

(a) Where a covered air carrier is under an equal employment opportunity requirement, the covered air carrier shall, to the extent possible, satisfy this equal employment obligation by hiring qualified designated employees.

(b) Where a covered air carrier is under an equal employment opportunity requirement and cannot satisfy such requirement by hiring from the pool of qualified designated employees, the carrier may meet its equal employment requirement by hiring non-designated employees. *Provided, however,* That this provision shall not change or reduce the responsibilities of carriers in regard to the hiring procedures required by §§ 220.21, 220.22, 220.23, and 220.24.

Subpart D—Designated Employees' Responsibilities

§ 220.30 Designated employees' responsibilities.

It is the responsibility of each designated employee to:

(a) Make application to any covered air carrier for whom the designated employee desires to work in the time and manner required by such carrier.

(b) To insure that an application previously submitted to a covered air carrier which currently lists a vacancy is in an active status so as to be considered for such vacancy;

(c) To provide a copy, if requested, of the notice of rights to a potential employing air carrier; and

(d) To retain the original notice of rights for future use.

Subpart E—Department of Labor's Responsibilities

§ 220.40 Comprehensive job list.

(a) The Secretary shall establish a Center to maintain a comprehensive listing of all vacancies listed by air carriers in accordance with §§ 220.22 and 220.23.

(b) The Center will be accessible by telephone throughout the United States to facilitate the listing or modifying of vacancy information by air carriers.

(c) The Center shall provide an air carrier with an identifying number for each vacancy listed on the comprehensive listing.

(d) The comprehensive listing shall be compiled, published and distributed to each local office of the State Employment Security Agencies on a periodic basis as determined necessary by the Secretary, and it shall be distributed to such other individuals or organizations as may desire to receive copies thereof in accordance with criteria established by the Secretary from time to time.

§ 220.41 List of protected employees.

The Secretary shall establish and publish a list of protected employees as reported by covered air carriers under § 220.25. A copy of this list shall be sent to all covered air carriers as soon as available.

Subpart F—Administration

§ 220.50 Effective period of the program.

(a) *Beginning date.* (1) The requirements set forth in this part shall be effective thirty (30) days after publication in the FEDERAL REGISTER.

(b) *Ending date.* This program and these regulations terminate on the last day of the effective period.

(c) Nothing in this part shall affect the rights and duties of protected employees and covered air carriers under the Act prior to the effective date of this part.

§ 220.51 Disclosure of information.

The Department of Labor shall make available to covered air carriers and to designated employees or their authorized representatives, all reports, certifications, or lists collected under this part, to the extent permitted by the Privacy Act (5 U.S.C. 552a) and the Department's regulations issued pursuant to that Act (29 CFR part 70a).

APPENDIX I TO PART 220—U.S. CARRIERS CERTIFICATED AS OF OCTOBER 23, 1978, UNDER SECTION 401 OF THE FEDERAL AVIATION ACT OF 1958, AS AMENDED

(Annotations Reflect Operating Status as of December 2, 1985.)

1. Airlift International, Inc.
2. Air Micronesia, Inc.
3. Air Midwest
4. Air New England, Inc.*
5. Air Wisconsin, Inc.
6. Alaska Airlines, Inc.
7. Allegheny Airlines, Inc. (*2*)
8. Aloha Airlines, Inc.
9. American Airlines, Inc.
10. Aspen Airways, Inc.
11. Braniff Airways, Inc. (*1*)
12. Capitol International Airways, Inc.*
13. Chicago Helicopter Airways, Inc.*
14. Colonial Airlines, Inc.*
15. Continental Air Lines, Inc.
16. Delta Air Lines, Inc.
17. Eastern Airlines, Inc.
18. Evergreen International Airlines, Inc.
19. The Flying Tiger Line, Inc.
20. Frontier Airlines, Inc.
21. Hawaiian Airlines, Inc.
22. Hughes Air Corp.* (*4*)
23. Kodiak Western Alaska Airlines, Inc.*
24. Mackey International Airlines, Inc.*
25. McCulloch International Airlines, Inc.
26. Midway Airlines, Inc.
27. Midway (Southwest) Airways, Co.*
28. Modern Airways, Inc. (*1*)
29. Munz Northern Airlines, Inc.*
30. National Airlines, Inc.* (*5*)
31. New York Airways, Inc.*
32. North Central Airlines, Inc.* (*4*)
33. Northwest Airlines, Inc.
34. Overseas National Airways, Inc.* (*6*)
35. Ozark Air Lines, Inc.
36. Pan American World Airways, Inc.
37. Piedmont Aviation, Inc.
38. Reeve Aleutian Airways, Inc.
39. Rich International Airlines, Inc. (*1*)
40. Seaboard World Airways, Inc.* (*7*)
41. Southern Air Transport, Inc.
42. Southern Airways, Inc.* (*4*)
43. Texas International Airlines, Inc. (*8*)
44. Trans International Airlines, Inc. (*9*)
45. Trans World Airlines, Inc.
46. United Airlines, Inc.
47. Western Air Lines, Inc.
48. Wien Air Alaska, Inc.
49. World Airways, Inc.
50. Wright Air Lines, Inc.
51. Zantop International Airlines, Inc.

* No longer holds certificate.

(*1*) Holds certificate, but not operating.

(*2*) Renamed U.S. Air, Inc.

(*3*) Renamed Capitol Air, Inc.

(*4*) Merged into Republic Airlines, Inc.

(*5*) Merged into Pan American World Airways, Inc.

(*6*) Ceased operation in September 1978. United Air Carriers, Inc., dba National Airlines and dba Overseas National Airways, may be a successor.

(*7*) Merged into Flying Tiger Line, Inc.

(*8*) Merged into Continental Airlines.

(*9*) Renamed Transamerica Airlines, Inc.

CHAPTER III—NATIONAL RAILROAD ADJUSTMENT BOARD